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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

LATVIA

1. The Committee considered the initial report of Latvia (CCPR/C/81/Add.1/Rev.1) at its 1421st, 1422nd and 1425th meetings (see CCPR/C/SR.1421, 1422 and 1425) held on 12 to 14 July 1995, and adopted[1] the following comments:

A. Introduction

2. The Committee welcomes the initial report (CCPR/C/81/Add.1/Rev.1) of Latvia and expresses its appreciation to the State party for the open and constructive dialogue with the Committee. However, it notes that, while providing detailed information on prevailing legislation in Latvia, the report does not contain enough information on the way in which the Covenant is implemented in practice. To some extent, the information provided by the delegation and the responses to the questions raised by members of the Committee largely covered these deficiencies and provided the Committee with a better insight into the human rights situation in Latvia.

[1] At its 1441st meeting (Fifty-fourth session), held on 26 July 1995.

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B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee notes that it is necessary to overcome vestiges of the totalitarian past and that much remains to be done to strengthening democratic institutions and respect for the rule of law. The Government's efforts in restructuring the legal system and endeavouring to better implement the Covenant have been hampered by lacunae in some existing legislation as well as by continuing resort to a number of outdated laws which are incompatible with corresponding provisions of the Covenant.

4. In consequence of large scale emigration from and immigration to Latvia in the past, there co-existed in the country, at the time of the renewal of independence, a significantly large proportion of persons belonging to various national minorities. The policy of the Government to establish precise criteria with regard to naturalisation and citizenship has raised a number of difficulties which are affecting the implementation of the Covenant.

C. Positive aspects

5. The Committee expresses its satisfaction as to the fundamental and positive changes which have taken place since Latvia re-established itself as a sovereign state in 1990. These changes will create a better political, constitutional and legal framework to the full implementation of the rights enshrined in the Covenant.

6. Latvia's accession, soon after its renewal of independence on 4 May 1990, to various human rights international instruments, such as the Covenant, confirms the genuine commitment of the State party to guarantee the basic human rights of all individuals.The recognition by Latvia of the competence of the Committee to receive and consider communications from individuals under the first Optional Protocol to the Covenant is of particular importance for the effective implementation of the Covenant.

7. The Committee notes with satisfaction that there has been significant progress in securing civil and political rights in Latvia since the proclamation of the renewal of independence. Particular satisfaction is expressed at the adoption, in January 1995, of the National Programme for the Protection and Promotion of Human Rights in Latvia, and at the establishment of a Human Rights Council in July 1995.

8. The Committee also notes with satisfaction the elimination of capital punishment as a potential penalty for several types of economic crimes as well as the planned revision of the Criminal Code which should lead to the abolition of the death penalty.

D. Principal subjects of concern

9. The Committee regrets that the Covenant has not been given an overriding status in the Latvian legal order and that the "Constitutional Law on the Rights and Obligations of a Citizen and a Person" of 10 December 1991 has no constitutional status. Furthermore, the Constitution of 15 February 1922, which was restored in 1993, has not yet been fully

amended so as to incorporate all the rights enshrined in the various articles of the Covenant. At the same time, the Committee notes with concern the absence of a body, such as a Constitutional Court, charged with determining, inter alia, the conformity of domestic laws with the provisions of the Covenant and other relevant human rights instruments.

10. The Committee also notes that it has not been made sufficiently clear, during the consideration of the report how the human rights of resident non-citizens are guaranteed, in accordance with article 2, paragraph 1 of the Covenant.

11. The Committee notes with concern that the Latvian legal system has not yet provided for effective mechanisms of investigation in respect of violations of human rights, as required under article 2, paragraph 3, of the Covenant. In the view of the Committee, the need to make effective remedies available to any person whose rights are violated is particularly urgent in respect of the obligations embodied in articles 7, 9 and 10 of the Covenant.

12. The Committee further regrets that the respective functions and mandates of the State Minister on Human Rights and of the newly created Human Rights Council have not been clearly described during the discussion and believe that there may be certain overlapping in their activities as well as a lack of effective coordination.

13. While expressing satisfaction at the impending changes in the Criminal Code which are expected to abolish the death penalty in due course, the Committee is concerned that the death penalty can be imposed for crimes which cannot be qualified as the most serious crimes under article 6 of the Covenant.

14. The Committee is concerned that the rights contained in articles 7 and 10 of the Covenant are not fully respected. The Committee is, in particular, concerned at allegations of mistreatment of detainees and at the conditions in places of detention, which do not comply with article 10 of the Covenant or other international standards. The apparent non-separation of accused persons from convicted persons and juveniles from adults is a further matter of concern. The Committee is especially concerned that there do not seem to be clear mechanisms for dealing with complaints of violence by law enforcement authorities and of conditions in detention centres and prisons. The Committee also notes that the judicial system in Latvia will not be able to exercise its functions properly until there is a sufficient number of well-trained and qualified judges and lawyers.

15. With regard to articles 9 and 14 of the Covenant, the Committee is particularly concerned that the new Code of Criminal Procedure has not been enacted. The role of the Prosecutor under the law on Prosecutor's Supervision, enacted on 19 May 1994, runs counter to the principle of equality of arms in criminal trials and does not protect in a proper way the right to personal security.

16. The Committee is concerned that, as a result of the absence of domestic legislation and procedure governing the treatment of asylum-seekers trying to enter, or who have entered Latvia, the Government has resorted to an excessive use of detention and removal of asylum-seekers from the country.

17. While welcoming the attempts at bringing the naturalisation and citizenship legislation

in conformity with regional human rights instruments, the Committee remains concerned that a significant segment of the population will not enjoy Latvian citizenship due to the stringent criteria established by the law, and the policy deliberately chosen to consider each case on an individual basis and pursuant to a timetable calculated to delay the naturalization process for many years. In the view of the Committee, the legislation still contains criteria of exclusion which give room to discrimination under articles 2 and 26 of the Covenant and raises difficulties under articles 13 and 17 of the Covenant.

E. Suggestions and recommendations

18. The Committee recommends that a review of the existing legal framework for the protection of human rights in the State party be undertaken in order to clarify the status of international human rights treaties, particularly the Covenant, in the domestic legal hierarchy. In this regard, the Committee emphasises the importance of giving the Covenant an overriding status in the national legal order. Regarding the actual application of the Covenant, the Committee requests the State party to indicate in its second periodic report any possible instances where the Covenant was directly invoked before the courts, as well as about the results of any such proceedings.

19. The Committee recommends that the State party review and include information in its next periodic report on the procedures established to ensure compliance with the views and recommendations adopted by the Committee under the first Optional Protocol to the Covenant, also bearing in mind the obligations under article 2 of the Covenant.

20. The Committee urges that the State party take appropriate measures to provide effective and efficient remedies for all persons whose rights under the Covenant have been violated. In that regard, the Committee requests the State party to ensure due coordination between existing and planned institutions aiming at protecting human rights. The Committee also recommends that measures be taken to ensure greater public awareness of the remedies available to individuals, including the provisions of the first Optional Protocol.

21. The Committee would welcome information on the situation of women, to be provided in the second periodic report, and recommends the State party to take appropriate steps to educate the population of Latvia on the equality of men and women.

22. While strongly endorsing the steps envisaged towards the abolition of the death penalty in Latvia, the Committee recommends that a firm policy be adopted aiming at commuting, during the interim period, all death sentences into life imprisonment.

23. The Committee recommends that the State party take any necessary measures to ensure that the conditions of detention of persons deprived of their liberty fully meet article 10 of the Covenant, as well as United Nations Standard Minimum Rules for the Treatment of Prisoners.

24. The Committee emphasises the need for greater control over the police, particularly in the context of the recent authoritarian past from which Latvian society is emerging. Intensive training and education programmes in the field of human rights for law enforcement officials

as well as officials of the correctional service are recommended. Steps should be taken to institute effective recourse procedures for victims of police abuse and detained persons. Adequate publicity should be given to pronounced administrative and penal sanctions.

25. The Committee recommends that, in order to ensure the independence and impartiality of the judiciary, as well as the confidence of the individuals in the proper administration of justice, further steps be taken to speed up and complete the reform process. Further vigorous efforts should also be made to encourage a culture of independence among the judiciary itself.

26. The Committee recommends that the Government of Latvia takes steps to adopt domestic legislation governing the treatment of refugees and asylum-seekers in compliance with the Covenant and international refugees law. In this regard, the Committee further recommends that the Government of Latvia seek assistance from relevant international organizations including the Office of the UN High Commissioner for Refugees. The Committee also recommends that Latvia Government consider acceding to the 1951 Refugees Convention and the 1967 Protocol.

27. The Committee recommends that the State party takes all necessary measures to guarantee that the citizenship and naturalisation legislation facilitate the full integration of all permanent residents of Latvia with a view to ensure compliance with the rights guaranteed under the Covenant, in particular with articles 2 and 26.

28. The Committee recommends that the Covenant, the Optional Protocol and the Committee's comments be widely disseminated among the Latvian public. Additionally, the Committee recommends that human rights education be provided in school at all levels and comprehensive human rights training be provided to judges, lawyers, law enforcement officers and other persons involved in the administration of justice. In this regard, the Committee suggests that the State party avail itself of the technical cooperation services of the United Nations Centre for Human Rights, and seek the co-operation of the relevant non-governmental organisations.